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## **BNA DAILY ENVIRONMENT REPORT ARTICLES**

[Pioneer of Environmental Justice Movement Looks Back](#)

By David Schultz

Posted Oct. 15, 2018, 8:58 PM

One of the pioneers of the environmental justice movement looked back on a decades-long career at an event commemorating the publishing of a landmark 1987 study he co-authored.

#### EPA Acknowledges Risks From 13 Chemicals Approved for Sale

By Pat Rizzuto

Posted Oct. 15, 2018, 5:35 PM

The EPA allowed 13 new chemicals to enter the market even though it recognized that different ways they could be made or used might pose unreasonable risks, based on rules the agency proposed Oct. 15.

#### EU Adopts Restrictions on 33 Hazardous Chemicals in Textiles

By Stephen Gardner

Posted Oct. 15, 2018, 11:42 AM

Benetton Group SpA, H&M AB, PUMA SE and other apparel brands will have to ensure by 2020 that the clothing and footwear they sell in the European Union is largely free of 33 hazardous chemicals.

### **INSIDEEPA.COM ARTICLES**

#### D.C. Circuit Backs EDF's Criticism Of TSCA CBI Rule But Queries Remedy

Appellate judges at Oct. 12 oral argument strongly backed the Environmental Defense Fund's (EDF) criticism of confidential business information (CBI) provisions in the Trump EPA's final rule that determines chemicals subject to the revised Toxic Substances Control Act (TSCA), but queried what legal remedy they could give EDF.

#### Advisors Appear Skeptical Of EPA's Professed Priority On Children's Health

Members of EPA's children's health advisory committee are expressing skepticism about various statements from EPA officials professing the Trump EPA's support of children's environmental health, with several of the panel's members at a recent meeting suggesting that EPA leaders need to do more than say appropriate things or write memos.

#### NAS Preparing For New DOD Projects On TCE, Lead Risk Estimates

The National Academy of Sciences (NAS) is preparing to begin two new projects funded by the Defense Department (DOD) on the human health risks of the common solvent trichloroethylene (TCE) and lead, chemicals for which EPA has either created a controversial risk assessment or for which it has struggled to develop risk estimates.

#### Wheeler Affirms Children's Health Focus Amid Office Director Controversy

Acting EPA Administrator Andrew Wheeler in a new memo is "reaffirming" the agency's commitments to its children's health programs and specifically the Office of Children's Health Protection (OCHP), the latest step in the agency's efforts to mitigate controversy over the sudden removal of the office's former director in September.

#### Trump EPA's Failure To Seek Advice Frustrates Children's Health Panel

The Trump EPA's failure to date to ask the agency's children's health advisory committee for input on policy questions is frustrating members of the panel who say they cannot be effective without requests from the agency, and prompting the committee chairwoman to say she will write Acting Administrator Andrew Wheeler about the issue.

#### Class Action Suit Seeks Industry-Funded Nationwide PFAS Health Studies

A class action suit brought Oct. 4 against the manufacturers of per- and polyfluoroalkyl substances (PFAS) is seeking industry-funded, independent nationwide health studies and testing to determine health effects caused by multiple PFAS -- including the newer replacement chemicals -- found in the blood of nearly all Americans.

#### EPW Democrats Say 'Rule Of Law' Requires Undoing Pruitt EPA Rules

Senate Environment and Public Works Committee (EPW) Democrats are urging Acting EPA Administrator Andrew Wheeler to fulfill his vow to "restore the rule of law" at the agency by undoing several rules issued by his predecessor Scott Pruitt, charging that the prior administrator's policies are legally suspect and should be scrapped.

#### Environmentalists Call For Broader EPA PFAS Policies Under Several Laws

Environmentalists are calling on EPA to broaden its actions to stem the environmental impacts of the class of non-stick chemicals known as per- and polyfluoroalkyl substances (PFAS), including regulating PFAS under multiple environmental laws and launching new testing and monitoring of the chemicals in drinking water systems.

### **GREENWIRE ARTICLES**

#### **Top official says she was ejected without explanation**

Corbin Hiar, E&E News reporter



Dr. Ruth Etzel, EPA's top pediatric expert, spoke to CBS about her time during the Trump administration. CBS News EPA's top children's health expert today spoke out for the first time since being placed on administrative leave last month and raised new questions about the agency's opaque effort to protect kids from lead poisoning.

Dr. Ruth Etzel, the sidelined director of EPA's Office of Children's Health Protection, told CBS News that she got the sense "that the government has absolutely no intention of taking any action toward seriously changing lead in children's environments."

<https://www.eenews.net/greenwire/2018/10/15/stories/1060102559>

**Gina McCarthy to return to headquarters this week**

Kevin Bogardus, E&E News reporter



Former EPA Administrator Gina McCarthy will return to agency headquarters for the first time since President Trump took office. EPA/Flickr

Gina McCarthy is slated to return to EPA headquarters this week for the unveiling of her official portrait.

Liz Purchia, an EPA spokeswoman during the Obama administration, told E&E News that McCarthy's portrait will be unveiled Thursday at the agency.

<https://www.eenews.net/greenwire/2018/10/15/stories/1060102571>

### **Justices won't take up Calif. lead paint fight**

Ellen M. Gilmer, E&E News reporter



U.S. Supreme Court. Mark Fischer/Flickr

The Supreme Court will not wade into a feud over whether a California court's approach to lead paint in houses treads on the constitutional rights of companies that made and sold the material.

The justices today rejected a pair of cases brought by Sherwin Williams Co., ConAgra Grocery Products Co. and NL Industries Inc., which challenge a California Court of Appeal decision that called the manufacture and sale of the lead paint a public nuisance and put the companies on the hook for hundreds of millions of dollars.

<https://www.eenews.net/greenwire/2018/10/15/stories/1060102549>

## CHEMICAL WATCH ARTICLES

### **EPA issues TSCA 'not likely' findings for six substances**

15 October 2018 / Substance notification & inventories, TSCA, United States

The US EPA has made affirmative findings that six new substances, evaluated under the TSCA new chemicals programme, are unlikely to pose an unreasonable risk to human health or the environment.

These 5(a)(C)(3) findings, signed on 5 October, will allow the substances to come to market without restriction.

### **PMNs P-18-0100 and P-18-0102**

The two confidential substances, intended for use in industrial UV curable coatings resins, were evaluated under the TSCA acrylates / methacrylates chemical category and the anionic polymers chemical class.

The EPA estimated that both pose low environmental hazard, but have the potential for such health hazards as skin and eye irritation and developmental and liver toxicity.

But because worker exposures can be controlled by personal protective equipment (PPE) and there are no expected consumer exposures, the EPA determined they were unlikely to present an unreasonable risk.

#### **P-18-0070**

Based on the TSCA chemical category for esters and test data on analogous chemical substances, the EPA estimated that this chemical intermediate for the polyurethane industry presents moderate environmental hazard and the potential for blood, bladder and developmental toxicity, as well as eye irritation.

The agency determined that worker exposures could be controlled by PPE, and identified no unreasonable risk to the general population or environment. It therefore approved it for commerce.

#### **P-18-0116**

The EPA identified persistence for this industrial chemical intermediate, but noted it has low potential for bioaccumulation, such that repeated exposures are not expected to be cumulative. And the sensitisation potential identified by data from analogous substances can be controlled through worker PPE, says the agency's 'not likely' determination.

#### **P-18-0227**

The substance, D-Glucaric acid, is intended to be used as a chemical intermediate. It also has a variety of foreseen uses beyond those identified in the pre-manufacture notice (PMN), based on patent searches the agency conducted.

The EPA estimates moderate environmental hazard, but said that the substance is not persistent due to its rapid biodegradation and low potential for bioaccumulation. It flagged irritation and corrosion as two human health concerns.

Despite these potential hazards and the substance's having a variety of possible uses, the EPA expects that workers will use PPE or "otherwise handle products appropriately to limit exposure". And if the substance is ever used in consumer products, the agency expects it would only contain the substance in concentrations that are not corrosive or irritating.

#### **P-18-0137**

The substance, generically named 'alkylsilsesquioxane, ethoxy-terminated', is intended to be mixed with other components to improve water protection of construction materials.

The EPA estimated that it has moderate environmental hazard and the potential for gastrointestinal and developmental toxicity, as well as pulmonary effects, based on its inclusion in the TSCA chemical category for alkoxysilanes and the nonionic polymers chemical class.

Due to its low bioaccumulation, and that its worker exposures can be controlled by PPE, the EPA has determined it is unlikely to present an unreasonable risk.

#### **Further Information:**

- [P-18-0100 and P-18-0102](#)
- [P-18-0070](#)
- [P-18-0116](#)
- [P-18-0227](#)

## Canada consumer products enforcement exercise finds mixed results

15 October 2018 / Canada, Enforcement, Environmental Protection Act, Phthalates

A compliance checking exercise into consumer products in Canada has produced mixed results when it comes to testing for the presence of restricted substances.

Health Canada checked six types of items under its Consumer Product Safety Programme (CPSP). Four of these involved verifying chemical content:

- methylchloroisothiazolinone (MCI) and methylisothiazolinone (MI) in cosmetics – of 14 products tested, six leave-on products were out of compliance for using one or both of the chemicals in excess of the legal limit. The sale of all was stopped, except for one case of voluntary recall;
- lead and cadmium in glazed ceramics and glassware – of five samples assessed, all were in compliance, so no corrective actions have been recommended;
- restricted substances in fragrances – of 206 fragrances tested, only two were found to have compliance issues: one due to dihydrocoumarin, and one due to hydroquinone and p-hydroxyanisole. The sale of both products was stopped; and
- phthalates in vinyl used in toys – of 27 toy products tested, seven were found to not contain vinyl at all. Of the remaining 20, 17 were in compliance, and three resulted in voluntary recalls.

Before starting the compliance project, the CPSP carried out a market survey of the ceramics, cosmetics, and toy companies in Canada. Targets were then selected for sampling and testing by Health Canada inspectors.

The products were tested over the course of fiscal year 2017-2018, with the exception of the MCI and MI tests, which were carried out in 2016-2017.

The CPSP enforces the country's Consumer Product Safety Act (CCPSA) and the Food and Drugs Act, which includes the country's cosmetics regulations. Its work includes verifying industry compliance with those regulations. The consequences for non-compliance vary on a case-by-case basis.

Separately, Health Canada has revised its Mandatory Incident Reporting guide, for those who sell, import, or manufacture consumer products. There are no significant changes; most revisions are for more detail or for clarity.



[Lisa Martine Jenkins](#)

Americas reporter

**Further Information:**

- [Glazed ceramics and glassware report](#)
- [Cosmetics report](#)
- [Cosmetic \(fragrances\) report](#)
- [Phthalates report](#)
- [Revised mandatory incident reporting guide](#)

## **Increase in Snurs triggers CDR rule concerns**

Call for modified reporting thresholds, small business definition

16 October 2018 / Data, TSCA, United States



The specialty chemicals group Socma is pressing the US EPA to make changes to its CDR rule as a result of changes to the TSCA new chemicals programme.

The comments came in [response](#) to an EPA information collection request (ICR) on its Chemical Data Reporting (CDR) rule, which requires companies to submit, every four years, quantity and use information for substances produced in and imported into the US.

Socma pointed out that manufacturers must report if, for any year of the CDR cycle, production volume exceeds 25,000lbs per manufacturing site. However, for substances subject to a TSCA action – including a consent order or significant new use rule (Snur) – that threshold drops to 2,500lbs.

Since enactment of the Lautenberg Act in 2016, use of these regulatory instruments in the TSCA new chemicals programme has [soared](#). And consequently, the group fears that this will "undoubtedly result in a vast increase in the number of small companies who will be subject to CDR reporting in 2020".

Compounding this concern is that the [definition](#) of a small business, as far as it relates to section 8 reporting requirements, has not been updated since 1988. And despite having [acknowledged](#) that an inflationary adjustment may be warranted, the EPA has yet to issue a rulemaking to update these size requirements.

TSCA's finalised [fees rule](#) includes an updated small business definition based on employee numbers, but this change only relates to fees, and does not cover section 8 reporting requirements.

Socma has called on the agency to begin a prompt rulemaking to update its size standard for the CDR. And it reiterated a request for creating a "single, consistent classification system to identify small businesses" across all of TSCA.

The EPA said in the fees rule it believes a forthcoming TSCA section 8(a) rulemaking will "provide for more consideration of appropriate size standards for industries subject to TSCA and offer the public further opportunities to comment on small business size standards". It indicated plans in its semiannual regulatory agenda to propose such a rule in September, but there is no sign of it yet.

### **Additional suggestions**

Beyond Socma's concerns, the American Chemistry Council requested that the EPA address "historical operability issues" with its electronic reporting tools.

The e-CDR web tool, said the trade group, requires "significant upgrades for a variety of reasons in order to ensure a less burdensome, more accurate CDR reporting process".

Cited issues included difficulty navigating, page time-outs, challenges submitting confidential business information (CBI) substantiation, and that login passphrases cannot be reset by EPA staff – leading to access problems when company staff roles change.

The ACC also requested that the EPA revise its burden cost estimates to reflect the generally higher actual compliance time that companies spend.

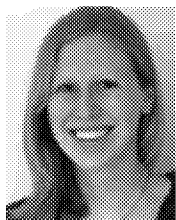
Finally, the Color Pigments Manufacturers Association (CPMA) requested that the EPA not use the CDR to collect information on chemicals and processes which "cannot reasonably be anticipated to pose a hazard of concern".

"EPA should use its broad discretion with respect to CDR reporting to focus the CDR on fewer chemicals which represent a potential risk," it wrote. "For those chemicals which pose a potential risk and are subject to EPA risk evaluation, a more detailed data collection should include processors to more accurately approximate the entire chain of commerce."

Federal collection of information is regulated by the Paperwork Reduction Act. ICRs are used to demonstrate that the collection is necessary and justifiable, and must be renewed every three years.

The existing ICR for the CDR is set to expire on 31 October. The agency collected comments in advance of that deadline, to inform its renewal submission to the Office of Management and Budget (OMB) for review and approval.

OMB will make a final determination on this.



Kelly Franklin

North America editor

### **Related Articles**

- [US EPA round-up](#)
- [Socma resumes focus on TSCA new chemicals programme](#)
- [Agency calls for rethink of TSCA small business definition](#)

- [US EPA seeks SME definition feedback](#)
- [TSCA fees structure finalised by EPA](#)

#### **Further Information:**

- [CDR ICR](#)
- [Public docket](#)
- [Socma comments](#)
- [ACC comments](#)
- [CPMA comments](#)
- [EPA CDR info](#)

#### **US EPA reopens comment periods for 172 Snurs**

16 October 2018 / New TSCA/LCSA, North America, Substance notification & inventories

The US EPA has reopened comment periods for two sets of TSCA significant new use rules (Snurs) for chemical substances, following requests for extensions.

Comments for the proposed rule on [145 Snurs](#) covering various substances can now be submitted until 14 November. The original comment period ended on 31 August.

Submissions for the second set of [27 Snurs](#), which include chlorinated paraffins and other substances, will be accepted until 30 October. The original comment deadline closed on 17 September.

In both cases, the agency received a request to extend the comment period that came too late to enact before the consultation expired.

#### **Related Articles**

- [EPA withdraws rulemaking for 145 Snurs](#)
- [EPA issues 27 TSCA significant new use rules](#)

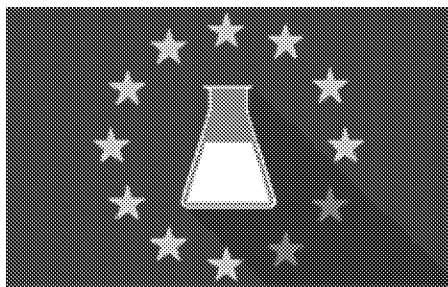
#### **Further Information:**

- [Federal Register: 145 Snurs](#)
- [Federal Register: 27 Snurs](#)

#### **NGO: EU 'blindly' allows hazardous chemicals on the market**

Industry slams 'unjustified' criticism after REACH dossier check project

16 October 2018 / Data, Enforcement, Europe, REACH



European authorities are "blindly" allowing harmful substances on the market and the industry's "corrosive" influence is at the root of the problem, NGO the European Environmental Bureau (EEB) has said.

Its comments come in response to an EU REACH compliance project, which found almost a third of dossiers for substances registered at more than 1,000tpa to be non-compliant with REACH on average for a given endpoint.

The project, carried out by the German Federal Institute for Risk Assessment (BfR) and Environment Agency (UBA), began in 2014 and investigated more than 3,800 registration dossiers submitted across the EU.

The EEB's senior policy adviser Tatiana Santos praised the German study as being "the only inspection from a national authority for years". Having discovered "a mess", however, they should now move to enforce the law, she said.

The NGO's report accused industry of "breaking the law" and the authorities of "pretty much letting it happen". Substances allowed on the EU market are often linked to a "silent pandemic of diseases" such as cancer, Ms Santos said.

And despite the low level of compliance, the chemicals will continue to be used with no extra enforcement activities foreseen in the short-term, she added, pointing out that just four of around 40,000 dossiers registered with Echa have been revoked since 2010.

In its response, the BfR said it did not subscribe to all of the "personal views" expressed in the EEB report.

Underlining a lower average non-compliance rate of 19% detected in the German study for the 100-1,000 tonnage band, the BfR stressed that a 'non-compliant' dossier "does not automatically mean that use of the substance poses a risk to human health or the environment".

A missing or incomplete justification for the adaptation of the standard information requirement does not mean that such cannot be given, a BfR spokesperson noted.

### **'Unjustified'**

The German Chemical Industry Association (VCI) said EEB's comments are "excessive and largely unjustified" and discredit companies' efforts to meet complex requirements under REACH. Furthermore, the German study was designed in a way that made it impossible for the companies examined to be found conforming.

Describing the existing rules for dossier evaluation as "adequate", the VCI also warned against member states conducting their own separate checks in addition to those carried out by Echa. Such checks could become a "one-sided playing field" for political interests of national authorities, it said.

Meanwhile, the European Chemical Industry Council (Cefic) said it agreed with the UBA and BfR's assessment that both industry and authorities need to increase their efforts in improving dossier quality.

Cefic and Echa signed a joint [statement](#) in June agreeing to work together on the effective implementation of REACH. It sees both sides committing to improving chemical safety information and how this is communicated up and down the supply chain.

Cefic said it is already working on recommendations that will provide registrants with more certainty and guidance on how to complete their dossiers.



[Clelia Oziel](#)

Reporter

### Related Articles

- [REACH registration project finds low compliance rates](#)
- [Cefic and Echa sign agreement to improve REACH implementation](#)

### Further Information:

- [EEB press release](#)
- [REACH dossier check report](#)

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